IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF PUERTO RICO

IN RE:	
RAFAEL ROSARIO CASTRO **MILAGROS SANTANA CRUZ**	**CASE NO. 09-09502 (SEK)**
DEBTORS	**CHAPTER 13**
FIRSTBANK PUERTO RICO	
MOVANT	

MOTION TO INFORM STATUS OF PAYMENTS AND REQUEST FOR ENTRY OF ORDER DEEMING THE CASE AS DISMISSED

TO THE HONORABLE COURT:

Comes now, FIRST BANK PUERTO RICO through its undersigned counsel and respectfully alleges and prays:

A. JURISDICTION

1. The jurisdiction of the Honorable Court is ascertained under Title 28 USC §1334, and venue under Title 28 USC §1408, and particularly regarding this matter under Title 11 USC §1307(C) (1), (4) and (6), on Conversions and Dismissals, and Title 11 USC §1326 on Payments.

B. FACTUAL BACKGROUND

1. This Honorable Court have jurisdiction under Title 28 USC §1334, and venue under Title 28 USC §1408, and particularly regarding this matter under Title 11 USC §1307(c) (1), (4) and (6), on Conversions and Dismissals, and Title 11 USC §1326, on Payments.

2. Debtors filed the instant petition for relief on **November 5, 2009**. *See, Docket 1.*

3. Movant filed a Proof of Claim, in the amount of **$5,487.79** as a secured holder of a personal security agreement, duly registered at the Department of Transportation of Puerto Rico, and under account no. **xxx-xx-xxxx1300**. ***See, Claim No. 2.***

4. On July 30, 2010, Movant filed a Motion to Dismiss due to the fact that Debtor as of July 20, 2010, was in default with the Chapter 13 Trustee for the amount of $650.00. *See, Docket 28.*

5. On September 13, 2010, this Honorable Court entered an Order dismissing the case for failure to make payments*See, Docket 58.*

6. On October 4, 2010, Debtors filed a Motion for reconsideration of Order Dismissing the case alleging that they brought up to date the Chapter 13 Plan.

7. Despite of Debtors' allegations, as of this date they continue having the following installments owed to the Chapter 13 Trustee:

Should Paid in	**Total Paid in**	**Amounts in Arrears**	**Months in Arrears**
$3,900.00	**$3,250.00**	**$650.00**	**2**

Please refer to the corresponding PC Program windows of the Chapter 13 Trustee included as Attachment A.

8. Thus, debtors by their own conduct have demonstrated their failure to comply with the requirements of the Bankruptcy Code and their lack of commitment to the reorganization of their finances.

9. In view of the aforesaid, dismissal of the instant case is proper within the frame of Title 11 USC §1307 (c) of the Bankruptcy Code and the arguments set forth on Movant's Motion to Dismiss filed at Docket 28.

10. On the basis of the above facts, and pursuant to Section 1307(c) of the Bankruptcy Code and Movant's Motion to Dismiss filed at Docket 28, we respectfully request from this Court that an Order be entered deeming the case to remain as dismissed.

11. According to the enclosed certification, provided by the Department of Defense Manpower Data Center (DMDC), the debtor(s) is (are) not in active duty or under call to active duty as a member(s) of the Army, Navy, Navy or Air Forces of the United States of America; the National Guard; the Public Health Service or the NOAA. *See, Attachment B.*

WHEREFORE, **FIRSTBANK PUERTO RICO,** very respectfully prays as relief, that an order be entered deeming the case as dismissed.

In San Juan, Puerto Rico, the 29 day of November, 2010.

NOTICE

Within thirty (30) days after service as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bank. P. 9006(f) if you were served by mail, any party against whom this motion has been served, or any other party to the action who objects to the relief sought herein, shall serve and file an objection or other appropriate response to this paper with the Clerk's office of the U.S. Bankruptcy Court for the District of Puerto Rico. If no objection or other response is filed within the time allowed herein, this motion will be deemed unopposed and may be granted unless: (i) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (iii) in the opinion of the Court, the interest of justice requires otherwise.

Puerto Rico Local Bankruptcy Rule 9013-1(h)

CERTIFICATE OF SERVICE

I HEREBY CERTIFY, that a copy of this motion is being sent by first class mail to the Debtor: **RAFAEL ROSARIO CASTRO and MILAGROS SANTANA CRUZ,** at the address on record: BUENAVENTURA, CALLE CLAVEL 261. BUZON 660, CAROLINA, PUERTO RICO 00987; and to the authorized addresses through/by the Bankruptcy CM/ECF System to: Debtor's counsel, **RODOLFO HERNANDEZ**

RAMOS; to the Chapter 13 Trustee, **JOSE RAMON CARRION MORALES** and to the **US TRUSTEE**.

BY: ***//s// MARISTELLA SANCHEZ RODRIGUEZ***

Maristella Sanchez Rodriguez, Esq.
Attorney for Movant- US 224714
MARIA M. BENABE-RIVERA, ESQ.
Attorney for Movant- US 208906
PO Box 9146, Santurce, PR 00908-0146
1519 Ponce de León Ave., 2nd Floor
Tel. (787) 729-8135, Fax (787) 729-8270
Email: maristella.sanchez@firstbankpr.com

Attachment A

FirstBank

Analysis Sheet to Determine Arrears to Trustee

IN RE :	RAFAEL ROSARIO CASTRO/ MILAGROS SANTANA CRUZ					Case #	09-09502	SEK	
Date petition filed:	5-Nov-09								
First payment due date :	5-Dec-09								
According to Plan Dated on:	7-Jan-10								
Monthly Payment of :	$ 325.00	$	-	$	-	$	-	$	-
Term :	60		0		0		0		0
Pass Term:	12		0		0		0		0
Should Have Paid In:	$ 3,900.00	$	-	$	-	$	-	$	-
Total Paid Into Plan:	$ 3,250.00	$	-	$	-	$	-	$	-
Amount in Arrears:	$ **650.00**	**$**	**-**	**$**	**-**	**$**	**-**	**$**	**-**
	TOTAL	**$**	**650.00**						
Next payment date:	5-Dec-10		(2 ATRASOS)						
Refer for MTD on :	REFER								
Printed On :	29-Nov-10								
Prepared by :	*YANIRA RIVERA CARLO*								
Note :									

FINANCIAL SUMMARY - CASE 09-09502

Print Page Printer Friendly

RAFAEL ROSARIO CASTRO paying **$325.00** MONTHLY

Receipts	Rcpts/Deb Refunds	Disbursements	Adjustments	Trustee Disb	Trustee Adj

Limits: Select Start Date Select Claim ID Select Payee Name Check Status: Cleared Stale Dated Stop Payment Cancelled Voided Outstanding

Date	Payee	[illegible]	Source / Check	[illegible]	Receipts	[illegible]	[illegible]
11/1/2010			0663 00681 4068	LOCKBOX PAYMENT	$325.00		
10/7/2010			0651 00521 4588	LOCKBOX PAYMENT	$325.00		
10/7/2010			0651 00501 4597	LOCKBOX PAYMENT	$325.00		
8/31/2010			0503 00120 3698	LOCKBOX PAYMENT	$325.00		
8/2/2010	0	RODOLFO R HNDZ RAMOS*	6240680	ATTORNEY FEE - MONTHLY DISBURSEMENTS		$299.00	
8/2/2010		JOSE R. CARRION	555975	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		$26.00	
7/16/2010			0501 00080 7782	LOCKBOX PAYMENT	$325.00		
6/1/2010	0	RODOLFO R HNDZ RAMOS*	6240209	ATTORNEY FEE - MONTHLY DISBURSEMENTS		$299.00	
6/1/2010		JOSE R. CARRION	552038	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		$26.00	
5/17/2010			0502 00700 0330	LOCKBOX PAYMENT	$325.00		
5/3/2010	0	RODOLFO R HNDZ RAMOS*	6239983	ATTORNEY FEE - MONTHLY DISBURSEMENTS		$299.00	
5/3/2010		JOSE R. CARRION	549970	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		$26.00	
4/6/2010			0501 01950 3843	LOCKBOX PAYMENT	($325.00)		
4/6/2010			0501 01950 3843	LOCKBOX PAYMENT	$325.00		
3/31/2010			0501 01950 3843	LOCKBOX PAYMENT	$325.00		
3/1/2010	0	RODOLFO R HNDZ RAMOS*	6239428	ATTORNEY FEE - MONTHLY DISBURSEMENTS		$879.94	
3/1/2010		JOSE R. CARRION	545891	TRUSTEE SALARY & EXPENSE - MONTHLY DISBURSEMENTS		$95.06	
2/16/2010			0503 00380 9337	LOCKBOX PAYMENT	$325.00		
1/19/2010			0500 01280 7312	LOCKBOX PAYMENT	$325.00		
12/17/2009			0655 00281 9803	LOCKBOX PAYMENT	$325.00		
				Totals:	**$3,250.00**	**$1,950.00**	

Breakdown for Combined Schedules

Period	Date (Month[illegible]	Payment D[illegible]	Payment Rec[illegible]	Amt [illegible] Due
1	12/2009	$325.00	$325.00	$0.00
2	1/2010	$325.00	$325.00	$0.00
3	2/2010	$325.00	$325.00	$0.00
4	3/2010	$325.00	$325.00	$0.00
5	4/2010	$325.00	$0.00	$325.00
6	5/2010	$325.00	$325.00	$325.00
7	6/2010	$325.00		$650.00
8	7/2010	$325.00	$325.00	$650.00
9	8/2010	$325.00	$325.00	$650.00
10	9/2010	$325.00		$975.00
11	10/2010	$325.00	$650.00	$650.00
12	11/2010	$325.00	$325.00	$650.00

Total Delinquent Amount: $650.00

Attachment B

Department of Defense Manpower Data Center
Nov-29-2010 07:33:19

Military Status Report
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
SANTANA CRUZ	MILAGROS	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

Mary M. Snavely-Dixon

Mary M. Snavely-Dixon, Director
Department of Defense - Manpower Data Center
1600 Wilson Blvd., Suite 400
Arlington, VA 22209-2593

The Defense Manpower Data Center (DMDC) is an organization of the Department of Defense that maintains the Defense Enrollment and Eligibility Reporting System (DEERS) database which is the official source of data on eligibility for military medical care and other eligibility systems.

The DoD strongly supports the enforcement of the Service Members Civil Relief Act (50 USC App. §§ 501 et seq, as amended) (SCRA) (formerly known as the Soldiers' and Sailors' Civil Relief Act of 1940). DMDC has issued hundreds of thousands of "does not possess any information indicating that the individual is currently on active duty" responses, and has experienced a small error rate. In the event the individual referenced above, or any family member, friend, or representative asserts in any manner that the individual is on active duty, or is otherwise entitled to the protections of the SCRA, you are strongly encouraged to obtain further verification of the person's status by contacting that person's Service via the "defenselink.mil" URL http://www.defenselink.mil/faq/pis/PC09SLDR.html. If you have evidence the person is on active duty and you fail to obtain this additional Service verification, punitive provisions of the SCRA may be invoked against you. See 50 USC App. §521(c).

If you obtain additional information about the person (e.g., an SSN, improved accuracy of DOB, a middle name), you can submit your request again at this Web site and we will provide a new certificate for that query.

This response reflects **active duty status** including date the individual was last on active duty, if it was within the preceding 367 days. For historical information, please contact the Service SCRA points-of-contact.

More information on "Active Duty Status"
Active duty status as reported in this certificate is defined in accordance with 10 USC § 101(d)(1) for a period of more than 30 consecutive days. In the case of a member of the National Guard, includes service under a call to active service authorized by the President or the Secretary of Defense for a period of more than 30 consecutive days under 32 USC § 502(f) for purposes of responding to a national emergency declared by the President and supported by Federal funds. All Active Guard Reserve (AGR) members must be assigned against an authorized mobilization position in the unit they support. This includes Navy TARs, Marine Corps ARs and Coast Guard RPAs. Active Duty status also applies to a Uniformed Service member who is an active duty commissioned officer of the U.S. Public Health Service or the National Oceanic and Atmospheric Administration (NOAA Commissioned Corps) for a period of more than 30 consecutive days.

Coverage Under the SCRA is Broader in Some Cases

Coverage under the SCRA is broader in some cases and includes some categories of persons on active duty for purposes of the SCRA who would not be reported as on Active Duty under this certificate.

Many times orders are amended to extend the period of active duty, which would extend SCRA protections. Persons seeking to rely on this website certification should check to make sure the orders on which SCRA protections are based have not been amended to extend the inclusive dates of service. Furthermore, some protections of the SCRA may extend to persons who have received orders to report for active duty or to be inducted, but who have not actually begun active duty or actually reported for induction. The Last Date on Active Duty entry is important because a number of protections of SCRA extend beyond the last dates of active duty.

Those who would rely on this certificate are urged to seek qualified legal counsel to ensure that all rights guaranteed to Service members under the SCRA are protected.

WARNING: This certificate was provided based on a name and SSN provided by the requester. Providing an erroneous name or SSN will cause an erroneous certificate to be provided.
Report ID:UL2SQNAQTR

Department of Defense Manpower Data Center Nov-29-2010 07:31:48

Military Status Report
Pursuant to the Service Members Civil Relief Act

Last Name	First/Middle	Begin Date	Active Duty Status	Active Duty End Date	Service Agency
ROSARIO CASTRO	RAFAEL	Based on the information you have furnished, the DMDC does not possess any information indicating the individual status.			

Upon searching the information data banks of the Department of Defense Manpower Data Center, based on the information that you provided, the above is the current status of the individual as to all branches of the Uniformed Services (Army, Navy, Marine Corps, Air Force, NOAA, Public Health, and Coast Guard).

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Report ID:VKHRMLLLLA